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In the United States Court of Appeals
For the Seventh Circuit

No. 12111

STELLA C. DAVIS and BETTY HORRIGAN
Plaintiffs-Appellants,
vs.
RAY M. FOREMAN, KENNETH CLAPPER and CLYDE MEACHUM
Defendants-Appellees.

Appeal from the United States District Court for the Eastern District of Illinois.

Honorable Casper Platt, District Judge.

BRIEF AND APPENDIX FOR THE APPELLANTS.

Stella C. Davis, *Pro Se*,
4916 N. Magnolia Avenue,
Chicago, Illinois.

Betty Horrigan, *Pro Se*,
1303 Carmen Avenue,
Chicago, Illinois,
RAvenswood 8-7970.

U. S. C. A.-7
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IN THE

UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

No. 12111

STELLA C. DAVIS and BETTY HORRIGAN, Plaintiffs-Appellants, vs. RAY M. FOREMAN, KENNETH CLAPPER and CLYDE MEACHUM, Defendants-Appellees.	Appeal from the United States District Court for the Eastern District of Illinois. Honorable Casper Platt, District Judge

BRIEF FOR THE APPELLANTS.

STATEMENT OF FACTS.

This action was brought to recover damages occasioned by the alleged Conspiracy, False Pretenses and violation of their Civil Rights of the appellants in their cause of action by the appellees, above named, and who are attorneys at law. The Court entered an Order on June 3, 1957 dismissing the Complaint for lack of jurisdiction of subject matter and on July 5, 1957 entered a Court Order upon Oral Arguments on Petitions to Vacate Orders entered on June 3, 1957, dismissing suits to stand and petitions denied from which this appeal is taken. The errors relied on arise out of rulings on preclusion of exhibits, evidence, and testimony, in sustaining Motion to Dismiss and to Strike, and failure to grant plaintiffs

request to have the suit transferred to the criminal side of the docket made in the Oral Arguments on Petitions to Vacate Orders of June 3, 1957 in court on July 5, 1957.

Ray M. Foreman, Assistant U. S. Attorney, in such capacity on December 9, 1950 obtained confidential information and facts which he used to the appellants detriment. He also received the sum of $10.00, (Tr. p. 1). Ray M. Foreman, defendant-appellee, as Assistant U. S. Attorney obtained confidential information supplied federal agencies by appellants and also from Stella C. Davis in his office as federal attorney in Danville, Illinois on December 9, 1950 (Tr. p. 2) and used this information to their detriment in various courts and elsewhere.

Together with Kenneth Clapper, he, Ray Foreman gained possession of the appellant's legal file and detective's report and made personal use of it while representing the antagonist to them, The National Bank of Mattoon (Tr. p. 2).

Ray M. Foreman, appellee also used United States Mails and Federal Communications to perpetrate fraud, conspiracy and deceit upon the appellants both in Illinois and interstate with a California attorney, Elliot W. Seymour. (Tr. p. 3).

Ray Foreman used his federal position to help him carry on this fraud, deceit and conspiracy on the appellants by stating that he was working through federal agencies to protect them against the persons and institutions which they had complained about to the F.B.I. (Tr. p. 3).

Kenneth Clapper and Clyde Meachum, defendants-appellees, during certain periods aided Ray Foreman in these conspiracies and deceit, and fraud.

When appellants learned of this fraud, malfeasance, deceit and dual role of Ray M. Foreman, defendant-appellee, he threatened the appellants, and caused them great hardships, physically and financially. (Tr. pp. 3-4).

SUMMARY OF ARGUMENT.

1.

The Issues presented substantially and directly affects the Constitutional and Civil Rights and Privileges granted under the Constitution of The United States and the Bill of Rights cases, and constitutes Federal Questions of substance not heretofore determined.

11.

The Courts below decided the issues in a manner inconsistent with the basic principles involving the Rights and Privileges of the Complainants.

CONTESTED ISSUES.

The contested issues are to Dismiss and Strike the Complaint for lack of federal jurisdiction, and to strike the Complaint from the records of the court, for reasons of scandalous recitations, and allegations, by the Appellees, Ray M. Foreman, Kenneth Clapper, and Clyde Meachum.

The Appellants in their Reply Brief state the Federal Court was vested with Jurisdiction of suit seeking redress for deprivation of Civil Rights guaranteed by the Constitution of the United States Amendment 14, regardless of Citizenship or amount in controversy.

That under Rule 9, of C.R. of C.P. this rule requiring that averment of Fraud be stated with particularity in Complaint alleging Fraud was not subject to Objection it contained impertinent or scandalous allegations.

PROPOSITIONS OF LAW RELIED ON.

I.

The Charges of Fraud as such set forth is a Denial of Due Process of the Law and violation of the 14th Amendment to the Constitution.

Bradley 7 Wall 364, 19 L. ed. 214, December 1868
Cummins v. *U. S. Ark.*, 1916, 232 F. 844, 147 C.C.A. 38
Magnum Import Co. v. *McCoty*, N. Y. 1925, 43 S. Ct. 262 U. S. 159, 67 L. ed. 922.

II.

It is the Right of every Private Citizen of the United States to Inform an F.B.I. Agent, Treasury Agent, etc. of violation of Internal Revenue Laws or other United States Laws under Rule 56 U.S.C. Title 28.

In Re Quarles, Ga. 1895 15 S. Ct. 959, 158 U. S. 537, 39 L. ed. 1080.

III.

Unlawful Searches may violate the 4th Amendment to the Constitution made by Subterfuge or Fraud rather than by force.

Carrol v. *U. S.*, 267 U. S. 132.

IV.

Federal District Court was vested with Jurisdiction of Suit seeking Redress for Deprivation of Civil Rights guaranteed by the USCA Const. Amend. 14 regardless of Diversity of Citizenship or amount in Controversy.

Ex Parte-Virginia, 100 U. S. 346-7
Ortega v. *Ragan*, C. A. Ill. 1954.

V.

In the absence of a Counter-Affidavit averments contained in Affidavits and Supported by Exhibits by the Plaintiff's in Support of their reply Brief must be taken as true.

Leitch v. *Hine*, 393 Ill. 211, 218

Brandt v. *St. Paul Mercury Indemnity Co.*, 285, Ill. 212, 217.

VI.

Rule 9, Civil Rules of Federal Procedure. "Under this rule requiring that averments of Fraud be stated with Particularity complaint alleging Fraud was not subject to Objection that it contained redundant, immaterial, impertinent of scandalous allegations.

Israel v. *Alexander*, D. C. N. Y. 1942 50 F. Supp. 1007.

VII.

"Wilful" in the Act of Congress of 1882, 22 Stat. at L. 166 Title 13 imposing a penalty on a National Bank Officers or agents on wilful violations of the Law, implies a knowledge and purpose to do wrong.

Potter v. *U. S.*, 438, 15 S. Ct. 144, 49 L ed. 214.

ARGUMENT.

I

The Federal District Court was vested with jurisdiction of suit seeking redress for deprivation of Civil Rights guaranteed by the United States Constitution, Amendment 14, regardless of diversity of citizenship or amount in controversy.

This action involves "Officers of the U. S. representing a National Bank which is subject to the paramount authority of the United States. These federal men under a salary of the government, were also getting an outside salary from an Estate wherein the bank came in as Administrator by Conspiracy and Fraud instigated by the defendant-appellee, Ray M. Foreman, Assistant U. S. Attorney, aided by Kenneth Clapper, and at a later date by Clyde Meachum, U. S. Referee in Bankruptcy.

There was a "Conflict of Interest" between the widow of the decedent (Tr. 21, 22, 46, 47, 49, 52, 53, 54, 55, 61, 62), the heirs-at-law and the National Bank of Mattoon, Illinois in 1949 and 1950 prior to the death of William Daviditis, alias William Davis (Tr. 21-22) and in view of such conflict of interest it fraudulently became the administrator of the estate of the decedent, whereas they had formerly been Trustees in a fraudulent Separate Maintenance Action in the City Court of Mattoon, Mattoon, Illinois, 49-C-50 (Tr. 21-22) wherein they were defendants with the decedent and the widow, plaintiff. (Tr. 21-22). Bradley 7 Wall 364, 19 L. ed. December 1868, and *Cummins* v. *U. S.* Ark., 1916, 232 F. 844, 147 C.C.A. 38.

Under U.S.C. 12 sec. 248 (K) the bank is given the right to act as administrator, etc. and they are not re-

quired to execute bonds under the Probate Act of Illinois. We submit that this Rev. Stat. Chapter 3 sec. 335 and Rev. Stat. Chapter 3 sec. 299 to recover property and discover information regarding same is in contravention of the law under U.S.C. Title 12 sec. 248, and unconstitutional when it gives an administrator, trustee, etc. who is clothed under the Federal and State power and who is in direct conflict with the rights and interest of the heirs and widow of the decedent, and who usurps the power to refuse access under the law to the decedent's dealings, financial and otherwise, and who is being accused of fraud and conspiracy and other misapplications and violations of the National Banking Act is in a position to forever more deny them of access to the confidential records of all trusteeships, conservatorships, etc. which the bank had prior to the death of William Daviditis, alias William Davis, thereby being in direct conflict of the appellants interest when there was adverse litigation and the bank was the defendant together with the decedent and the widow the plaintiff (Tr. 21-22).

The appellee, Ray M. Foreman, together with Kenneth Clapper and Elizabeth McVey, aided by E. C. Bauer, caused a fraudulent petition for letters of administration issued, with a fraudulent acknowledgment affixed to same by Elizabeth McVey Ill. Rev. Chpt. 38 sec. 321 and 322. No hearing was held as far as the heirs and widow were concerned and no notice of this alleged hearing served upon them, neither did they waive this right in writing according to the Probate Law. Illegal Searches by the appellees, Ray M. Foreman and Kenneth Clapper, and getting accesses into the safety deposit box #932 of the decedent without the "Due Process of the Law" on a federal working day and protection of the rights of the heirs and widow. *Colorado Nat'l. Bank of Denver* v. *Bedfore,* Colo. 1940; *Potter* v. *U. S.* 155, 438, 15 S. Ct. 144, 39

L. ed. 214, and *Carroll* v. *U. S.*, 267 U. S. 132. Unlawful Search may violate the 4th Amendment to the Constitution by Subterfuge or Fraud. Bradley 7 Wall, 364 19 L. ed. 214, December 1868; *Whitlock* v. *McClusky*, 91 Ill. 582.

II.

It is the right of every private citizen of the United States to inform an F.B.I. Agent, Treasury Agent and etc. of Violation of Internal Revenue Laws or other United States Laws under Rule 56 of U.S.C. Title 28.

In Re Quarles, Ga. 1895, 15 S. Ct. 959, 158 U. S. 537, 39 L. ed. 1080. The appellants did inform the F.B.I. on the National Bank of Mattoon, Mattoon, Illinois and it's official, employee, and others. That as the result of such information and disclosure they were oppressed, threatened and intimidated, and more so by the defendant, appellee, Ray M. Foreman, U. S. Assistant Attorney involved as an attorney for the National Bank of Mattoon in their late father's and husband's estate due to the prior conflicts of interests. This right to inform is secured by the Constitution and a conspiracy to injure, oppress, threaten or intimidate them in the free exercise or enjoyment of this right, or because of their having exercised it may be punishable by an "Act of Congress". (Tr. pp. 3, 24, 25, 26, 31, 32, 33, 35, 38, 39, 40, 41).

III.

Where existance of fiduciary relationship has been established? Law presumes that transactions between parties by which dominant party has profited are fraudulent.

Stephenson v. *Kidecheck*, 919 N. E. 2d 542, 410, Ill. 139.

IV.

In the absence of counter-affidavits averments contained in the affidavits and supported by Exhibits by the Plaintiff's in support of their Reply Briefs must be taken as true.

Leitch v. *Hine*, 393 Ill 211, 218
Brandt v. *St. Paul Mercury Indemnity Co.*, 285, Ill. 212, 217.

V.

"Wilful" in the Act of Congress of 1882, 22 Stat. at L. 166, Title 13 imposing a penalty on a National Bank Officers or agents on wilful violations of the law implies a knowledge and purpose to do wrong. (Tr. 46, 47, 61, 62, 71 thru 78.

Prescott v. *Haughey*, C.C. in 18956 S. F. 569.

VI.

Rule 9, Civil Rules of Federal Procedure, "Under this rule requiring that averments of Fraud be stated with Particularity complaint alleging Fraud was not subject to Objection that it contained redundant, immaterial, impertinent or scandalous allegations.

Israel v. *Alexander*, D. C. N. Y. 1942 50 F. Supp. 1007.

VII.

That the appellants petitioned the Court for an attorney and were denied same in Court and in Court they made an Oral Motion to transfer their cause of action to the Criminal Side of the Docket and were denied this too.

CONCLUSION.

It is respectfully submitted that the records of this cause of action presents issues of great importance to the furtherance of justice to the appellants, that there has been a grave miscarriage of justice and great injury done to the appellants by the wrongful and deceitful acts of the appellees. That by these acts the appellants were left legally unprotected and vulnerable to every sort of legal pitfalls by trying to represent themseves to protect their rights, and we respectfully submit that the Orders of the trial court be reversed and remanded, and that the cause of action be tried on the Merits, Facts, Evidence and Testimony and Exhibits, by a jury.

Respectfully submitted,

STELLA C. DAVIS, *Pro Se*
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Chicago, Illinois

BETTY HORRIGAN, *Pro Se*
1303 Carmen Avenue,
Chicago, Illinois

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APPENDIX.

1 IN THE DISTRICT COURT OF THE UNITED STATES
For the Eastern District of Illinois

STELLA C. DAVIS and BETTY HORRIGAN, Plaintiffs-Appellants, vs. RAY M. FOREMAN, KENNETH CLAPPER and CLYDE MEACHUM, Defendants-Appellees.	Civil Action No. 1502-D

Stella C. Davis, Pro Se
4916 N. Magnolia Avenue, Chicago, Illinois.

Betty Horrigan, Pro Se
1303 Carmen Avenue, Chicago, Illinois.
Plaintiffs-Appellants

Foreman, Meachum & Clapper, Attorneys at Law
708 Baum Building, Danville, Illinois.
Defendants-Appellees

Honorable Casper Platt, Trial Judge
Federal Building
Danville, Illinois.

D. H. Reed, Clerk, U. S. District Court
Eastern District of Illinois,
Federal Building
Danville, Illinois.

Vernon Woods, U. S. Marshal
Eastern District of Illinois
Post Office Building
East St. Louis, Illinois.

PLEAS in the District Court of the United States within and for the Eastern District of Illinois at a regular term thereof, begun and held in the United States Court Room in the City of Danville in said district before the Honorable Casper Platt, Judge of said Court, on the first Monday of March in the Year of Our Lord One Thousand Nine Hundred and Fifty-Seven and of the independence of the United States of America, the One Hundred and Eighty-First Year.

D. H. Reed, Clerk
United States District Court
For the Eastern District of
Illinois.

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3

IN THE DISTRICT COURT OF THE UNITED STATES

• • (Caption—Civil Action No. 1502-D) • •

CLERK'S STATEMENT OF RELEVANT DOCKET ENTRIES IN THE DISTRICT COURT, UNDER RULE 12(e) OF THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

1956

Dec. 5th—File Complaint at Law praying $50,000.00 Judgment and Demand for Trial by Jury.

Dec. 5th—File Appearance of Stella C. Davis, Pro se.

Dec. 5th—Issue Summons and deliver to U. S. Marshal for service at 41 N. Vermilion Street, Danville, Illinois.

Dec. 27th—File U. S. Marshal's Return of Service duly made upon Ray M. Foreman, by handing to and leaving with him personally a true copy of Complaint and Summons at 12:30 P.M. on Dec. 14th, 1956 in Federal Bldg., Danville, Illinois and upon Kenneth Clapper and Clyde Meachum by handing to and leaving with each of them personally a true copy of Complaint and Summons at 10:10 A.M. on Dec. 19th, 1956 in Federal Bldg., Danville, Illinois. Said services made by Willard Corcoran, Deputy U. S. Marshal (Fee—$6.00) Marshal's Civil # 1812.

1957

Jan. 2nd—File Motion of Plaintiffs for Production of Documents and etc., pursuant to Rule 34 of F.R.C.P. and Proof of Service upon Foreman, Meachum & Clapper, Defendants.

Jan. 2nd—File Defendants' Motion to Dismiss on grounds of basis of Federal Jurisdiction.

Jan. 2nd—Defendants' Brief in Support of Motion to Dismiss and Affidavit of mailing copies.

Jan. 18th—File Affidavit in Support of Plaintiffs' Reply Brief to Defendants' Motion to Dismiss, with Plaintiffs' Reply Brief to Defendants Motion to Dismiss, and list of Exhibits annexed thereto in Support of above Affidavits and Affidavit of service.

Jan. 28th—File Motion to Strike with Affidavit of Service.

Jan. 31st—File Motion of Plaintiff for Production of Documents, Microfilm, Records, and etc., pursuant to Rule 34 of F.R. of Civ. P., with Affidavit of Service by Stella Davis.

Feb. 7th—File Affidavit Reply of Stella C. Davis and Betty Horrigan with Exhibit "I" to Defendants' Motion to Strike with original of Affidavit of Matilda Marion and Affidavit of Service.

June 3rd—Enter Order of Court on Defendants' Motion to Dismiss—There is no allegation in complaint that plaintiffs and defendants are citizens of different states. Since there is no diversity of citizenship, 1332, Title 28 is not applicable. It must be concluded that this court does not have original jurisdiction of the subject matter of plaintiffs' Claim for Relief, and motion to dismiss complaint must be allowed. It Is Ordered that plaintiffs' complaint be and same is hereby Dismissed. (Drawn) Platt, Judge.

June 4th—Mailed copies to both plaintiffs and to Defendant Law Firm—Foreman, Meachum & Clapper

4 June 13th—File Petition to Review and Vacate Order of June 3rd, 1957 and Affidavit in Support thereto. (Stella C. Davis) Request for counsel.

June 14th—Enter Order of Court granting above Petition to Review and for Oral Arguments on same set on July 5th, 1957 at 10 A.M. (DST) in Danville. Plaintiffs should employ their own

counsel to represent them in these suits unless they desire to appear pro se. (Drawn) Platt, Judge.

June 14th—Mailed copies of above Order to all plaintiffs and to Defendant Law Firm also to The National Bank of Mattoon, etc. in Civil No. 1533-D.

July 3rd—File Stella C. Davis Return of service of Subpoena upon Mrs. James (Elizabeth) McVey, Mishawaka, Indiana.

July 5th—Enter Court Order upon Oral Arguments on Petitions to vacate two Orders of June 3rd, 1957 Dismissing said suits. Appearances: Stella C. Davis, Betty Horrigan and Josephine Daviditis, etc., Pro Se and Kenneth Clapper for Defendants. Court after due hearing Orders the Petitions to Dismiss Civil 1502-D and 1533-D hereby Denied and Orders of 6/3/57 Dismissing said suits shall stand. (Drawn) Platt, Judge. Copies mailed to all parties of record.

July 10th—File Marshal's Return of Service of subpoenas on Martin Behrend, President of Mattoon National Bank, E. C. Bauer, First Casher of said Bank and Ralph Suddes, Mattoon Attorney for attendance and showing $6.86 check to each party. Service made by James L. Thompson, Deputy Marshal. (Fee-$17.50) Marshal's Civil No. 1812. (All checks above tendered were returned to Stella Davis on July 5th, 1957 as witnesses are not required to attend a hearing of oral arguments.)

July 19th—File Notice of Appeal to United States Court of Appeals pursuant to Rule 73(b). Fee paid . . . . $5.00.

July 19th—Issue Clerk's Certificate of Mailing copies of Notice of Appeal to Attorneys for Appellee.

Aug. 2nd—File Appeal Bond of Stella C. Davis and Betty Horrigan for $250.00 with Globe Indemnity Company as Surety. Appeal Bond Approved by Casper Platt, U.S. Dist. Judge. 8/2/57.

Aug. 6th—File Designation of Record on Appeal to the United States Court of Appeals for the Seventh Circuit.

Aug. 9th—File Statement of Points, signed by Stella Davis and Betty Horrigan, together with Affidavit of Service of Mailing Copies.

5 State of Illinois } ss.
County of Vermilion }

IN THE UNITED STATES DISTRICT COURT
For The Eastern District Of Illinois

Stella C. Davis
4916 N. Magnolia Avenue
Chicago, Illinois

Betty Horrigan
1303 Carmen Avenue,
Chicago, Illinois
Plaintiffs,
v.

Ray M. Foreman
Kenneth Clapper
Clyde Meachum
41 N. Vermilion Street,
Danville, Illinois,
Defendants.

Civil Action 1502-D

COMPLAINT AT LAW
(Filed Dec 5 1956—D. H. Reed, Clerk)

Jurisdiction In This Cause is Based on the following: Title 28-1331, section 1343, section 1442 (3) title 18

-sec. 241-1707 and 1708 and sec. 1343 and sec. 1348 title 28 of The U. S. Code

1. The plaintiffs complain that the defendants, Ray M. Foreman, Kenneth H. Clapper and Clyde Meachum conspired against them in various named manners:

That Ray M. Foreman, on or about December 9, 1950 held interviews in the United States Attorneys office in Danville, Illinois, with the plaintiff, Stella C. Davis in which he obtained confidential information and facts and the sum of Ten Dollars ($10.00) and used this Confidential information against the plaintiff's in the many Courts to their detriment.

6 2. The defendant, Ray M. Foreman, obtained confidential information from federal agencies pursuant to section 139 F of Title 5 which the plaintiffs supplied these agencies with regarding possible violations of our Federal Laws, and again from the plaintiff, Stella C. Davis, on December 9, 1950, in his official capacity as Assistant United States Attorney in his office in the Post Office in Danville, Illinois. The defendant did not have the authority to release such confidential information without the plaintiffs consent, yet he, Ray M. Foreman used this confidential information in testifying against his clients in various courts thereby endangering their lives by such disclosures in open court.

3. The defendant conspired together with Kenneth H. Clapper both on April 2, and 3rd, 1951, to gain possession of the plaintiff's legal file and detective's report, on the pretex of helping them, but instead used same to their and their mother's detriment when representing an antagonist to them, The National Bank of Mattoon.

4. While the defendant, Ray M. Foreman, who was under retainer to represent them, together with Kenneth H. Clapper assisting him, he, Ray M. Foreman "double

crossed'' them and unknown to them at the time became attorney for the National Bank of Mattoon and as such received a fee of $2500.00. We, the plaintiffs were unaware of the existence of the defendant, Clyde Meachum, who also shared in this fee at that time, but only through the defendant's letter dated November 20, 1951, Ray M. Foreman to plaintiff's—carbon copies of said letter. Through the legal assistance of the above named defendants, the antagonist to the plaintiff's the National Bank of Mattoon, Mattoon, Illinois, received a fee of
7 $1,250.00. Whereas the legal file and investigator's report which the defendant, Ray M. Foreman took possession of on April 2, 1951, approximately $500.00 or more.

5. Jurisdiction is also founded on the existence of Federal questions and the amount in controversy is $3,000.00 or more.

6. The defendant, Ray M. Foreman made use of the Federal Communications and United States Mail within the State of Illinois, and interstate to California to perpetrate this fraud and misrepresentation and conspiracy upon the plaintiff's. Elliot W. Seymour in San Francisco, California aided and abbetted the defendant.

7. Ray M. Foreman, defendant used his office in the United States Post Office and his high position as a federal attorney and stated forth that through his high position as a U. S. Government man, stated that he was working through the federal agencies to protect us from bodily harm, to investigate federal violations, income tax, violations of The National Bank Act, and other serious complaints made to the federal agencies prior to the plaintiff's father's death and afterwards, to protect our legal and civil rights against the persons we were complaining about, Ralph E. Suddes, W. Kenneth Kidwell and Martin Behrend, Assistant Vice President and Trust Officer of

The National Bank of Mattoon, Mattoon, Illinois, and others.

8. Kenneth H. Clapper, and Clyde Meachum, defendants in certain periods of the above named proceedings aided and abbetted the defendant, Ray M. Foreman.

9. Immediately when the plaintiffs learned of the
8 fraud, deceit, malfeasance, and misrepresentation and conduct prejudicial to the administration of justice, the defendant, Ray M. Foreman, threatened the plaintiff's, caused us great hardships, physically as well as financially and deprived them of their civil rights under the Constitution of the United States and leaving them legally unprotected through these acts, great loses of money, bonds, real and personal property.

Wherefore: the plaintiffs prays for Judgment against the defendants, Ray M. Foreman, Kenneth H. Clapper and Clyde Meachum, attorneys in the abount of Fifty Thousand Dollars ($50,000.00) plus costs of this action, that a Summons be issued to the said defendants and for such other and further relief as to the District Court may seem just and proper.

That the plaintiffs hereby demand a Trial by Jury on the Triable Issues.

/s/ Stella C. Davis, Pro Se
Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois
/s/ Betty Horrigan, Pro Se
Betty Horrigan, Pro Se
1303 Carmen Avenue,
Chicago, Illinois

Dated this 5th day of December, 1956.

9 • • •

10

UNITED STATES DISTRICT COURT

• • (Caption—Civil Action File No. 1502-D) • •

SUMMONS

(Filed Dec 27 1956)

To the above named Defendants: Ray M. Foreman, Kenneth Clapper and Clyde Meachum

You are hereby summoned and required to serve upon

Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois
and
Betty Horrigan, Pro Se
1303 Carmen Avenue
Chicago, Illinois

plaintiff's attorney, whose address

an answer to the complaint which is herewith served upon you, within Twenty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

D. H. Reed
Clerk of Court
Verna Peck
Deputy Clerk
[Seal of Court]

Date: December Fifth, A.D. 1956.

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UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D) • •

MOTION TO DISMISS
(Filed Jan 2 1957)

Defendants, Ray M. Foreman, Kenneth Clapper and Clyde Meachum, pro se, move that the complaint in the above entitled cause be dismissed, and in support thereof state as follows:

1. The court does not have jurisdiction of the alleged cause of action in that the complaint fails to disclose, or properly allege, any basis for Federal jurisdiction.

2. Any possible cause of action that plaintiffs might have had is barred by the Statute of Limitations.

Wherefore, defendants move that the complaint in the above entitled cause be dismissed at plaintiffs' cost.

/s/ Ray M. Foreman
Ray M. Foreman
/s/ Kenneth Clapper
Kenneth Clapper
/s/ Clyde Meachum
Clyde Meachum
Defendants, pro se

Ray M. Foreman
Kenneth Clapper
Clyde Meachum
Attorneys at Law
708 Baum Building
Danville, Illinois

17-20 • • •

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IN THE UNITED STATES DISTRICT COURT

* * (Caption—Civi. No. 1502-D) * *

EXHIBITS IN SUPPORT OF AFFIDAVITS

(Filed Jan 18 1957)

Now comes, Stella C. Davis, and Betty Horrigan, Pro Se, and itemize the following exhibits to be included as a part of the record of their cause of action in the above entitled suit which are as follows:

1. Mattoon City Court Summons-dated September 9, 1949—Josephine Daviditis, alias Davis, *v.* William Daviditis, alias William Davis, and The National Bank of Mattoon, 49-C-50. Service on defendants William Daviditis and Martin Behrend, Vice-Pres. and Trust Officer of said Bank.

2. Receipt for a key ring (7) keys and $20.00 cash on account of costs, Dated March 19, 1951, Elliot W. Seymour, San Francisco, California, attorney to Stella C. Davis.

3. Letter dated 1/7/52 from E. C. Bauer, trust office of National Bank of Mattoon, Illinois to Betty Horrigan.

4. Betty Horrigan's letter to E. C. Bauer, dated Jan. 9, 1952 in reply to above mentioned letter.

5. Letter dated August 23, 1951 to Elmer F. Elston (Allen, Dalbey & Foreman) Clerk of County Court of Coles, Illinois from Ray M. Foreman.

22 6. Letter dated March 31, 1951 from Elliot W. Seymour to Miss Stella C. Davis c/o Ray Forman, Esq. Attorney at Law, Mattoon, Illinois.

7. Letter dated August 23, 1951 to Stella C. Davis, from Ray M. Foreman (Allen, Dalbey & Foreman).

8. Letter dated November 20, 1951 from Ray M. Foreman to Edward W. Parlee, Attorney, Chicago, Illinois.

9. Letter dated March 25, 1952, to Charles O. Morgan, Jr. from Ray M. Foreman to San Francisco, California.

10. Letter dated April 1, 1953 to Mrs. Matilda Marion from Charles O. Morgan, Jr.

11. Objection to claim of Matilda Marion, National Bank of Mattoon, by: Foreman and Meachum.

by /s/ Stella C. Davis
Stella C. Davis, Pro Se
by /s/ Betty Horrigan
Betty Horrigan, Pro Se

23-24 * * *

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IN THE UNITED STATES DISTRICT COURT

* * (Caption—Civil No. 1502-D) * *

PLAINTIFF'S REPLY BRIEF TO DEFENDANT'S MOTION TO DISMISS.
(Filed Jan 18 1957)

1. The plaintiffs, Stella C. Davis, and Betty Horrigan, Pro Se, reply to the defendant's Motion to Dismiss their cause of action, and move that the Motion to Dismiss by the defendants in the above entitled cause be dismissed, and in support thereof state as follows:

a. The court does have jurisdiction of the alleged cause of action, and basis for Federal jurisdiction.

b. That the plaintiff's cause of action is not barred by the Statute of Limitations.

c. Because it appears from the bill of complaint filed herein that said complainants has an adequate remedy at law and hereby support such plain, complete and adequate remedy at law by the affidavits of Stella D. Davis and Betty Horrigan, together with Exhibits annexed thereto.

Wherefore, plaintiffs move that the Motion to Dismiss in the above entitled cause be dismissed at defendant's

cost and they be made to stand trial by Jury on facts, issues and evidence submitted by the plaintiffs.

/s/ Stella C. Davis,
Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois

/s/ Betty Horrigan,
Betty Horrigan, Pro Se
1303 Carmen Avenue,
Chicago, Illinois

26-43 • • •

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State of Illinois } ss.
County of Cook }

IN THE UNITED STATES DISTRICT COURT
Eastern District of Illinois

Civil No. 1502-D

AFFIDAVIT OF SERVICE
(Filed Jan 18 1957)

Stella C. Davis, being first duly sworn upon oath, states that she served copies of the foregoing Reply Brief to Defendants Motion To Dismiss and Affidavits in Support of Plaintiff's Reply Brief to Defendant's Motion to Dismiss, by Stella C. Davis and one by Betty Horrigan with a listing of the Exhibits, (of which only copies of same are to be filed in said court) on; Ray M. Foreman, Kenneth Clapper, and Clyde Meachum, all in one envelope via certified mail #723802—return receipt to Ray M. Foreman, Kenneth Clapper and Clyde Meachum, c/o Law Firm of Meachum, Foreman & Clapper, 41 N. Vermilion Street, Danville, Illinois by depositing same in the United States

Mail in the properly stamped and addressed envelope on the 17th day of January, 1957.

By /s/ Stella C. Davis
Stella C. Davis, Pro Se
Plaintiff

Subscribed and sworn to before me
this 17th day of January, 1957.

/s/ Harry D. Plotnick
(Seal) Notary Public

45

ELLIOT W. SEYMOUR
Attorney At Law
785 Market Street
San Francisco 3, Calif.
Telephone GArfield 1-2410

March 19, 1951

Received from Stella Davis one (1) key ring with seven (7) keys. Also $20.00 in cash on account of costs.

E W S

/s/ Elliot W. Seymour
Elliot W. Seymour

46-70 • • •

71 State of Illinois } ss.
County of Cook }

IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D) • •

REPLY AFFIDAVIT AND EXHIBIT TO DEFENDANT'S MOTION TO STRIKE.
(Filed Feb. 7—1957)

Stella C. Davis, and Betty Horrigan, being first duly sworn, deposes and says:

1. That the annexed Affidavit of Matilda Marion, supports the facts relevant to their cause of action against the defendants and the reasons for attacking the bank's entrance as administrator, and they the defendant's as its attorneys.

2. That in the affidavit of Matilda Marion, Betty Horrigan states that on personal knowledge, the facts are true in paragraph, A, part of paragraph B, and on information and belief, the events which occurred after she left the bank, on personal knowledge when she returned with Mr. Suddes and the rest of paragraph B. Betty Horrigan states that she has personal knowledge of her and her sister's acts in paragraph C, D, E, of said affidavit of Matilda Marion. That of paragraph F, both she and her sister Stella Davis, have personal knowledge, in as much as they were present in that office of Sudde's on or about September 12, or 13th, 1949. That said events did transpire in Mr. Sudde's office then and that Mr. Suddes did have those incompentency papers for both our father and mother to be declared incompetent and the National Bank of Mattoon made conservator of their Bank holdings, assets, properties, and etc. and of their persons.

72 3. That, I, Betty Horrigan, have personal knowledge stated in Matilda's affidavit, dated the 25th day of August, 1955, that we did call Mr. Suddes, and that he again repeated to take our mother out of the State of Illinois, and to California. That we did drive her to St. Louis, Missouri where she and Matilda Marion boarded a TWA plane for San Francisco, California on the 18th day of September, 1949. That mother did stay out in California until March 30, 1951.

That on information and belief, I, Betty Harrigan and Stella Davis, know that the facts stated in Matilda's affidavit paragraph H, regarding the events which transpired out in California wherein our mother was ignorant of

any proceedings regarding an Amended Complaint and others mentioned by our sister, Matilda, especially of the many proceedings which went on in the City Court of Mattoon, Illinois, when she was out of the State and out of the jurisdiction of said court.

4. That I, Stella C. Davis and Betty Horrigan, from personal knowledge know the facts alleged in paragraph I. by Matilda Marion are true, and those of paragraphs K are also true. That those of paragraph J. are true only as to information and belief by both Stella C. Davis and Betty Horrigan.

5. That I, Stella C. Davis, from information and belief know the facts stated in my sister, Matilda Marion's affidavit thereto annexed, are true, in paragraphs, A, B, C, D, E, and of personal knowledge of the facts stated in paragraph F and paragraph g, I being personally with my sister in Mr. Suddes office on said dates and occasions, and of personal knowledge of Articles of Agreement dated September 7, 1949.

/s/ Stella C. Davis
Stella C. Davis, Pro Se
/s/ Betty Horrigan
Betty Horrigan, Pro Se

Stella C. Davis, and Betty Horrigan, being duly sworn, says that the facts and allegations therein contained are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, they believes them to be true.

Subscribed and sworn to before me this 2nd day of February, 1957.

/s/ Belle Sax
Notary Public

Dated this 2nd Day of February, 1957.

(Seal)

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State of Illinois }
County of Cook } ss.

(Filed Feb 7—1957)

Matilda Marion, being sworn, upon oath, deposes and says:

A. That on September 9th, 1949, she in the company of her mother Josephine Daviditis and her sister Betty Horrigan, were in the National Bank of Mattoon, at Mattoon, Illinois. That her father William Daviditis was also in the Bank at the Cashiers window and was signing or endeavoring to sign his name, as an endorser to a large number of Government Bonds. My sister, Betty pleaded with my father, not to endorse or cash the Bonds, but he shouted at us in a manner to disturb the entire Bank. Betty Horrigan then spoke to Mr. Martin Behrend, who was then the Trust Officer of said Bank and she pleaded with him to help mother and she and I to calm our father. Mr. Behrend made replies to us which we considered very insulting and stated in substance that the Bonds belonged to father and if father wanted to cash them, he had a right to do so.

B. Being unable to stop father from endorsing the Bonds and stating that she was fearful that he might do something which would cause him to sustain a heavy loss, Betty announced to all of us in my hearing that she was going to call our sister, Stella Davis, by telephone in Chicago and she left mother and I in the Bank, while she went to telephone. Father was talking so loudly and creating such a disturbance that Mr. Behrend came over and talked to him and then they both went into a private office. Mr. Behrend ignored us completely and left mother and I outside this office. When Betty came back after telephoning Stella, she was accompanied by an attorney,

Ralph E. Suddes, who was also an assistant state's attorney of Coles County, Illinois, and Betty said that Suddes was going to help us. After talking with us briefly, Suddes urged us to sign a Complaint against father charging
74 him with having threatened to kill some person or persons. Mr. Suddes also said that with father locked up in the custody of the Police, he would be unable to sell or dispose of any of the Bonds to his or to our financial injury. Mr. Behrend heard part of this conversation and for the first time that day, indicated that he was interested in us and in our affairs.

C. Mr. Suddes, accompanied by my mother, my sister Betty and I, walked over to the office of Police Magistrate in Mattoon to sign a Complaint against father charging him with having threatened to kill some person. Betty Horrigan and I both signed the Complaint.

D. Mr. Suddes, accompanied by my mother, my sister Betty and I, walked to his office, where he urged my mother to file a suit against my father asking for a legal separation. Mr. Suddes also said that it had been stated to him in his capacity as assistant state's attorney, by my father and others, that it was my father's intention and the intention of other persons to have my mother, who had years earlier been committed to the Kankakee, Illinois Hospital for the Insane, re-committed to the Jacksonville, Illinois Hospital for the Insane, but that if mother would sign a Complaint for legal separation, she would be protected against any such action. No mention was made, at that time, of any fees or any retainer to be paid to Mr. Suddes. Mr. Suddes, in his office, drafted a Complaint for mother to sign asking for a legal separation from father. He asked her to sign it and he asked my sister Betty and I to sign it and during all this period, in his office, he kept insisting that he was protecting our mother from being committed to an asylum. Mother was

so fearful of being re-committed to a mental institution that she finally agreed to sign the Complaint and did sign it.

E. Mr. Suddes left us in his office around five o'clock while he went outside. When he came back, Mr. Behrend, who had previously been so insulting to us, was with him.

Mr. Behrend informed mother, Betty and I that he had arranged for father's release from jail and secured a room for father in the Plaza Hotal and that a doctor had given father a shot to calm him down, and that he had received from father in the Mattoon City jail all of father's monies, Bonds and other valuables and that he had deposited them in his bank. This was around six P.M. September 9th, 1949. We repeatedly asked Mr. Behrend what was the amount of the monies, bonds and other valuables that he had obtained from father while he was in the city jail. He refused to reply to our questions but evaded answering and was very nasty and insulting in his evasive answers. Mr. Suddes was in his office when we asked these questions of Mr. Behrend and he heard us ask such questions of Mr. Behrend. Mr. Suddes told us that he was with Mr. Behrend in the city jail but didn't state why he went to the jail or what he did there. Mr. Suddes made no effort to secure from Mr. Behrend answers to our questions.

F. On September 12th or 13th, 1949, when we phone Mr. Suddes at his law office, he told us to come up to his office that evening that he would have some papers for us to sign. When we arrived there Mr. Suddes was not there but Mrs. Suddes, who also was his secretary told us that Mr. Suddes wanted us to sign what she called incompetency papers. She kept urging us to sign but we told her that Mr. Suddes had to be present before we would even consider discussing them. The next evening we again called at Mr. Suddes law office. Mr. Suddes presented us

with two sets of what he called incompetency papers, which he said were to be signed by father's four daughters. My sister Marie Myers living in Mattoon and my sisters Stella Davis and Betty Horrigan, both from Chicago were in his office with us. One set was to have our father declared incompetent and to have the National Bank of Mattoon appointed as Conservator and the other set to have mother declared incompetent and to have the same bank appointed as Conservator. Betty Horrigan
76 and Marie Myers, at the insistance of Mr. Suddes, finally and reluctantly signed the papers for the incompetent of her mother. Marie Myers and I signed the papers for the incompetent of father. He and Stella engaged in a hot exchange of words because Stella flatly refused to sign either of the papers. In fact she refused to sign any papers which Mr. Suddes requested her to sign. Throughout the entire conversation, Mr. Suddes kept stating that his every action was for the protection of our mother and we four daughters.

Q. On September 17, 1949, my sister Stella Davis and I went to see Mr. Suddes in his law office during the morning. We asked him what he was doing for our mother and us regarding all aspects of the case. He told us to wait in his office and that he was going over to Kidwell & Yelvington's office to see what was being done there regarding the case. After waiting in his office for over an hour, Mr. Suddes came back and told Stella and I that there wasn't a thing he could do for our mother, that he was afraid to bring her into court as he feared she was not mentally competent to testify in court on her own behalf. Furthermore he stated to Stella and I that he was not going to take her into court because due to her mental condition she would never stand a chance and his advise to us as her attorney was to get her out of the State of Illinois and transported to California as soon as pos-

sible. Later on that same day Betty and I called Mr. Suddes and told him we thought that trip to California was entirely too long and too arduous for mother to take. He again stressed the fact that we should get her out of the state of Illinois as soon as possible to avoid being committed. William Myers, Marie Myers, Betty Horrigan, Stella Davis and I, drove Josephine Daviditis to St. Louis where Josephine Daviditis and I, Matilda Marion boarded a plane for San Francisco on the morning of September 18, 1949. From that day till March 30th, 1951, Josephine Daviditis lived with me and did not leave the state of California.

H. When mother and I arrived in San Francisco, she lived with us at our home. I received all the mail for
77 her as well as telegrams and long distance telephone calls. No letter, telegram or telephone call was received at my home for mother from Mr. Suddes or from anyone else acting for her. She received from no one any papers relative to her suit for separation which Suddes had filed for her in Mattoon. While at my house, she never received or signed an Amended Complaint or other paper in that proceeding or in any other proceeding. My sister Stella Davis sent to her mother Articles Of Agreement dated September 27, 1949, prepared by Ralph E. Suddes and notarized by John J. Yelvington, also attorney of the firm Kidwell & Yelvington. Mr. Suddes delivered this document to Betty Horrigan and Marie Myers who in turn gave it to Stella Davis, who sent it to her mother in San Francisco, California for examination. I took this agreement to an attorney in San Francisco and asked him to examine it and he said it was such a foul agreement and was so antagonistic to the interest and welfare of mother, that he could not understand how any lawyer could prepare a paper which was so violative of the rights of his client. He advise mother not to sign this paper so I re-

turned them to Stella Davis in Chicago. I called Stella by long distance phone from San Francisco to her home in Chicago telling her what this attorney said and that mother would not sign or agree to anything so foul.

I. My sister Stella called me by phone from Chicago and told me that she and my sister Betty had hired and retained a Chicago lawyer named Benjamin H. Ehrlich to protect mother and mother's interest and asked me to send $100.00 as my share of his fee and retainer. I send the $100.00 to Stella and she and Betty afterwards told me they had paid it, together with monies they had advanced, to Mr. Ehrlich, for his services. Neither mother nor I ever received any communication by letter or telegram or long distance phone from Mr. Ehrlich or from anyone claiming to represent her.

J. Somewhere around the second week of December, 1949, Mr. Suddes mailed to mother at my home in
78 San Francisco, a letter containing a legal separation paper, in which he wrote that mother was to receive $75 per month for her support. This was the first paper or communication she had received from Mr. Suddes since she had left Mattoon, Illinois on September 17, 1949. Mother was quite surprised because she had never signed any legal documents from the time she arrived at my home in San Francisco and specifically, she did not sign any Amended Complaint on which the legal separation was obtained. In fact, mother knew nothing at all about an Amended Complaint or the entry of any decree granting her legal separation. Further, mother stated to Mr. Suddes that she never wanted a legal separation, but that she only signed the original Complaint because she was scared and was told that if she didn't sign it, she would be recommitted to an insane asylum.

K. In March, 1951, father was in the hospital in San Francisco suffering from various ailments and he died

on March 25, 1951. The body was shipped from San Francisco on March 30th, 1951 for burial in Mattoon, Illinois. Mother and my sisters, Stella, Betty and Marie accompanied the remains from San Francisco to Mattoon, and this trip was the first time that mother let San Francisco for any purpose since September 17, 1949 to March 30, 1951. I didn't attend the burial at Mattoon, Illinois, but did attend the funeral services at San Francisco right after father's death.

That she makes this affidavit freely and voluntarily for the purpose of supporting the Petition of Josephine Daviditis, her mother, to Vacate a Decree of Separate Maintenance entered in favor of my mother in the City Court of Mattoon, Illinois, Case No. 49-C-50 because mother was not present in that Court when a purported Hearing on an Amended Complaint was had and that mother never signed or authorized any one to sign her name to an amended Complaint.

/s/ Matilda Marion
Matilda Marion

Subscribed and sworn to
before me a Notary Public
this 25 day of August, 1955, at Chicago, Ill.

(Seal)

/s/ Theodore J. Francis
Notary Public

My Commission expires the
15 day of April, 1958.

78A Stella C. Davis, Pro Se
4916 N. Magnolia Ave.,
Chicago, Ill.

State of Illinois)
City of Chicago) ss. ————
County of Cook)

AFFIDAVIT OF SERVICE
(Filed Feb. 7—1957)

Stella C. Davis, being first duly sworn upon oath, states that she served copies of the foregoing affidavit of Matilda Marion reply and exhibit to defendant's motion to strike annex to the affidavit of Betty Horrigan, and Stella C. Davis, on Ray M. Foreman, Kenneth Clapper, and Clyde Meachum, Law Firm Foreman, Meachum and Clapper, 41 N. Vermillion Street, Danville, Illinois, by certified mail, No. 722050 by depositing same in a single envelope with three enclosures to them in the United States Mail, in the properly stamped and addressed envelope.

Dated this 2nd day of February, 1957.

/s / Stella C. Davis

Subscribed and sworn to before
me this 2nd day of February, 1957.

/s/ Belle Sax,
Notary Public.

(Seal)

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IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D) • •

ORDER
(Filed Jun 3 1957)

The defendants, Ray M. Foreman, Kenneth Clapper and Clyde Meachum, present a motion to dismiss plaintiffs' civil action for damages caused by an alleged conspiracy and fraudulent acts of the defendants on the ground that this court does not have jurisdiction of the case.

The plaintiffs, Stella C. Davis and Betty Horrigan, allege in their claim for relief that they retained Mr. Foreman to represent their interest against the National

Bank of Mattoon, Illinois; that Mr. Foreman while serving as Assistant United States Attorney used his official position and conspired with the other defendants to obtain confidential information from the plaintiffs and subsequently used said information to the detriment of the plaintiffs. All three defendants are charged with the
80 alleged acts as private citizens. The plaintiffs base jurisdiction upon the following statutes: Title 28 U.S.C. §§1331, 1343, 1348 and 1442, and Title 18 U.S.C. §§241, 1707, and 1708.

The provisions relied upon in Title 18 relate only to criminal actions and provide for punishment where there is a violation of these sections of the Criminal Code. These statutes do not confer jurisdiction in civil actions.

Moreover, the sections of Title 28 upon which the plaintiffs rely are not applicable. Section 1442, Title 28 deals only with the removal of actions from the state court to the federal court by federal officers. Section 1348, Title 28 U.S.C. provides for actions against National Banking Associations commenced by the United States or an action to wind up the affairs of any such association. Section 1331, Title 28 U.S.C. confers jurisdiction upon the federal court when the matter in controversy exceeds the jurisdictional amount and arises under the Constitution, laws or treaties of the United States. The alleged conspiracy to defraud the plaintiffs does not involve the Constitution, laws or treaties of the United States.

The facts alleged in the claim for relief do not give this court jurisdiction of the subject matter under the Civil Rights Act, Title 42 U.S.C. §1981 et seq. It is true that §1343, Title 28 U.S.C. gives the federal court jurisdiction of suits under the Civil Rights Act but the plaintiffs have alleged that the defendants acted in their private
81 capacity and there is no allegation that the defendants or either of them acted under color of state law

as required by a suit under the Civil Rights Act. Shemaitis v. Froemke, C.A. 7, 1951, 189 F. 2d 963.

This court is therefore confined to §1332, Title 28 to take jurisdiction of the case. There is no allegation in the complaint that the plaintiffs and defendants are citizens of different states. Since there is no diversity of citizenship, §1332, Title 28 is not applicable.

It must be concluded that this court does not have original jurisdiction of the subject matter of the plaintiffs' claim for relief, and the motion to dismiss the complaint must be allowed.

It Is Therefore Ordered that the plaintiffs' complaint be, and the same is hereby, dismissed.

Entered this 3rd day of June, 1957.

/s/ Casper Platt
United States District Judge

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IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D) • •

PETITION TO REVIEW AND VACATE ORDER ENTERED ON JUNE 3RD, 1957, A. D. AND AFFIDAVIT IN SUPPORT THERETO
(Filed Jun 13 1957)

The petitioners, Stella C. Davis, and Betty Horrigan, Pro Se, state that an Order entered on June 3rd, 1957, A. D. in said District Court by Honorable Casper Platt, District Judge, dismissing the above entitled cause of action was predicated upon the petitioners without "Notice and Hearing", and in violation of the "Due Process of Law".

The petitioners were denied the opportunity to be heard, to have their day in Court, and to protect their "Rights" which "Due Process of Law" provision of the 14th and 5th Amendment to the Constitution which guarantees to

every person his day in Court and reasonable Opportunity to be Heard or Defend and it requires orderly proceeding in competent tribunal in accordance with generally established Rules not violative of fundamental rights, as in case of Rosenblum *v.* Rosenblum, 1943—42 New York 5 2d, 626-181 Misc. 78.

The petitioners, Stella C. Davis, and Betty Horrigan, Pro Se, on the 31st day of May, 1957, A. D. personally appeared in the District Court for the Eastern District of Illinois, in Danville, Illinois, and filed in Civil No. 1533-D, a Motion for Production of Documents, and Affidavit in Support of Complaint For Damages Resulting From Fraud and Plaintiff's Reply Brief and Exhibits Annexed Thereto, and that said petitioners were not served a "Notice of Hearing" by either the District Court Clerk, the District Court or the defendants on either Motion to Dismiss or Motion to Strike in the above entitled cause of
83 action and upon which said Order was predicated.

That the Order issued by the Honorable Casper Platt, United States District Judge was a Surprise to the petitioners without "Notice of Hearing" and "Hearing", and a direct violation of the "Due Process of Law" and their Rights under the 14th and 5th Amendment to the Constitution of the United States.

Wherefore, Petitioners pray:

1. That said Order may be reviewed, and reversed and be declared null and void.

2. That the defendants, Ray M. Foreman, Kenneth Clapper, and Clyde Meachum may be enjoined and restrained from proceeding to enforce said Order and that issuance of execution thereunder may be stayed.

3. That the petitioners, Stella C. Davis, and Betty Horrigan, may have their day in Court and have a Hearing to protect their Rights under the Constitution and have a Trial by Jury as asked for in their Complaint filed

in the above entitled cause of action on December 5, 1956, and that the petitioners have not waived their right for a Trial by Jury.

4. That the petitioners are representing themselves and that due to the Conspiracy, Fraud and Deceit and False Representation of the defendants, who are attorneys-at-law and who are practicing in the courts of the State of Illinois and it is the belief that some of the defendants are practicing in the United States District Courts, they have been unable to retain competent counsel and are now throwing themselves on the Mercy of the Court to protect their Rights under the Constitution that a competent Counsel be appointed for them at a fair and reasonable fee to help them in their cause of action against the defendants, Ray M. Foreman, Kenneth Clapper and Clyde Meachum.

And may it please the Court to order personal Notice to the defendants to appear before the Court at a time
84 and place and named by the Court therein to show cause why such a review and reversal of Order issued by the Court should not be declared Null and Void.

Respectfully submitted,

By /s/ Stella C. Davis
Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois

By /s/ Betty Horrigan
Betty Horrigan, Pro Se
1303 Carmen Avenue,
Chicago, Illinois

State of Illinois
City of Chicago, County of Cook } ss

AFFIDAVIT IN SUPPORT THEREOF

Stella C. Davis, and Betty Horrigan, Pro Se, being duly sworn, say that the facts and allegations therein contained are true, except so far as they are therein stated to be upon information, and that so far as they are therein stated to be upon information, they believe them to be true.

Dated this 12th day of June, 1957, A. D.
Subscribed and sworn to before me
this 12th day of June, 1957, A. D.
/s/ Maurice Kelman
Notary Public
My commission expires
1st Feb. 1959.

(Seal)

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IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D) • •

AFFIDAVIT OF SERVICE BY MAIL

Stella C. Davis, Pro Se, plaintiff of 4916 N. Magnolia Avenue, Chicago, Illinois, being first duly sworn, deposes and says that she has served copies of the foregoing Petition To Review And Vacate Order Entered On June 3rd, 1957 A. D. And Affidavit In Support Thereto on each of the above mentioned defendants, in the same envelope addressed to Foreman, Meachum & Clapper Law Firm, 41 No. Vermilion, 708 Baum Bldg. Danville, Illinois, via certified mail no. 723800, by depositing same in the United

States Mail in the properly stamped and addressed envelope on the 12th day of June, 1957, A. D.

by /s/ Stella C. Davis
Stella C. Davis

Dated this 12th day of June, 1957, A. D.
Subscribed and sworn to
before me this 12th day of June, 1957, A. D.
/s/ Maurice Kelman
Notary Public
My commission expires
1st Feb. 1959

(Seal)

86

IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D—1533-D) • • •

ORDER
(Filed Jun 14 1957)

Plaintiffs Stella C. Davis, Betty Herrigan and Josephine Daviditis, also know as Josephine Davis, present petitions to vacate two Orders issued by this court on June 3, 1957 which dismissed two suits filed by plaintiffs because this court had no jurisdiction thereof. The plaintiffs assert that the orders of dismissal were contrary to due process of law because they were afforded no notice or hearing.

87 The claim of denial of due process of law is capricious. After the defendants filed motions to dismiss in the above suits the plaintiffs filed reply briefs and affidavits. In the suit brought against Ray M. Foreman, Kenneth Clapper and Clyde Meachum the defendants moved to strike the plaintiffs' reply briefs, to which the plaintiffs filed in reply an affidavit. Rule 6(b) of this court provides as follows:

> "Any party desiring oral argument shall make appropriate note thereof upon the cover page of his brief. The court may, of its own motion direct oral argument to be had. If oral argument is requested or ordered it shall be heard at such place within the district as the judge may designate regardless of where the cause is pending. Unless otherwise ordered, all such matters shall be taken as submitted for decision on the briefs filed following the expiration of the time for filing the reply brief if oral argument is not requested and ordered, in which latter event, the matter shall be taken as submitted for decision upon the conclusion of the oral argument."

At no time did plaintiffs request oral argument. Consequently the matters raised by the motions presented by defendants were decided on the pleadings, briefs and affidavits.

In order to do substantial justice the court will, and hereby does, grant the petitioner the right to have oral argument on the petitions to vacate.

The plaintiffs have requested in their motions the appointment of counsel at a fair and reasonable fee. This is denied. The plaintiffs have advanced no grounds to support their request. Plaintiffs are evidently financially
88 able to employ counsel, since they state counsel should be appointed "at fair and reasonable fee." The court has no authority to choose counsel for plaintiffs. The lawyers admitted to practice in this court are honest, capable and are ready and willing to serve litigants at a reasonable fee. Plaintiffs should employ their own counsel to represent them in these suits unless they desire to appear pro se.

It Is Ordered that the parties appear for oral argument on the petitions to vacate on July 5, 1957, 10 a.m., D.S.T., in Danville, Illinois.

Entered this 14th day of June, 1957.

/s/ Casper Platt
United States District Judge

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IN THE UNITED STATES DISTRICT COURT

• • (Caption—Civil No. 1502-D—1533-D) • •

ORDER
(Filed Jul 5 1957)

Now comes, the plaintiffs, Stella C. Davis, Betty Horrigan and Josephine Daviditis, also known as Josephine Davis, pro se, and present their petitions to vacate two orders issued by this court on June 3, 1957, dismissing the above mentioned suits, and comes the defendants, Foreman, Meachum and Clapper and The National Bank of Mattoon by Kenneth Clapper in opposition thereto. The court being fully advised in the premises and after oral argument finds that the motions to dismiss should stand and the petitions to vacate denied.

It Is Hereby Ordered that the petitions to vacate the two orders dismissing the above mentioned suits be, and they are hereby, denied.

94 It Is Hereby Further Ordered that the orders entered on June 3, 1957 dismissing the above mentioned suits shall stand.

Entered this 5th day of July, 1957.

Casper Platt
United States District Judge

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IN THE UNITED STATES DISTRICT COURT

* * (Caption—Civil Action No. 1502-D) * *

NOTICE OF APPEAL TO UNITED STATES COURT OF APPEALS PURSUANT TO RULE 73 (b)
(Filed Jul 19 1957)

Notice is hereby given that Stella C. Davis, and Betty Horrigan, Pro Se, plaintiffs-appellants above named, hereby appeal to the United States Court of Appeals for the Seventh Circuit from the Order that the court does not have original jurisdiction of the subject matter and that the Motion to Dismiss the complaint must be allowed, and the same is hereby, dismissed, entered in this action on June 3rd, 1957, A.D. and on July 5, 1957, denying petitions to vacate said Order, and Ordering said Order to stand as ordered.

By /s/ Stella C. Davis
Stella C. Davis, Pro Se
4916 N. Magnolia Avenue,
Chicago, Illinois

By /s/ Betty Horrigan
Betty Horrigan, Pro Se
1303 Carmen Avenue,
Chicago, Illinois

Date this 18th day of July, 1957, A.D.

That a transcript of the record proceedings, together with Exhibits and Affidavits and Evidence be prepared by the clerk of The District Court for transmittal to the United States Court of Appeals for The Seventh Circuit.

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DISTRICT COURT OF THE UNITED STATES OF AMERICA

I, D. H. Reed, Clerk of the District Court of the United States for the Eastern District of Illinois, and keeper of the records and seals thereof, do hereby certify that at 12:10 P.M. (DST) on July 19th, 1957, I placed in the Mail Chute of the U.S. Post Office, Danville, Illinois, true copies of the Notice Of Appeal filed this 19th day of July, A.D. 1957 by Plaintiffs in the Matter of Stella C. Davis and Betty Horrigan, Plaintiffs, *v.* Ray M. Foreman, Kenneth Clapper and Clyde Meachum, Defendants, in Civil Action No. 1502-D. Said Notices of Appeal were placed in sealed, franked envelopes addressed to:

Ray M. Foreman, Attorney at Law, 708 Baum Building, Danville, Illinois. Kenneth Clapper, Attorney at Law, 708 Baum Building, Danville, Illinois. Clyde Meachum, Attorney at Law, 708 Baum Building, Danville, Illinois, and Foreman, Meachum & Clapper, Attorneys at Law, 708 Baum Building, Danville, Illinois.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in the City of Danville, in the District aforesaid, this 19th day of July A.D. 1957.

D. H. Reed
Clerk.

(Seal)

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DISTRICT COURT OF THE UNITED STATES OF AMERICA

I, D. H. Reed, Clerk of the District Court of the United States for the Eastern District of Illinois, and keeper of the records and seals thereof, do hereby certify the foregoing to be The Original Papers from the file of said District Court in Civil Action No. 1502-D entitled Stella C. Davis and Betty Horrigan, Plaintiffs-Appellants, *v.* Ray M. Foreman, Kenneth Clapper and Clyde Meachum, Defendants-Appellees, pursuant to the Rules of the United States Court of Appeals for the Seventh Circuit, Effective July 1st, 1956, which constitute the record on appeal in said cause, pursuant to Rules of Civil Procedure.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court, at my office in the City of Danville, in the District aforesaid, this 23rd day of August A.D. 1957.

D. H. Reed
Clerk.

(Seal)